

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARQUIS DESHAWN MARTIN,)
)
Petitioner,)
) 1:21-cv-119
v.) 1:19-cr-494-1
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

On September 27, 2022, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 20, 21.) No objections were filed within the time limits prescribed by Section 636.

While the analysis of the Magistrate Judge is compelling, Defendant did not receive the Recommendation and notice. (1:19-cr-494-1 Docs. 20, 21.) While this is the fault of Defendant for failing to notify the court of a change of address, see LR 11.1(b), this court elects to dismiss this matter without prejudice, see id., instead of adopting the Recommendation.

The record reflects that on September 27, 2022, the Magistrate Judge's Recommendation and notice were served by mail to Petitioner's last known address at FCI Fort Dix, Inmate Mail/Parcels, P.O. Box 2000, Joint Base MDL, New Jersey, but

returned as undeliverable as Petitioner was no longer at that facility. (See Doc. 22.) This court has no obligation to locate Petitioner to provide actual notice; instead, it is the duty of a litigant to keep this court informed of a current address. LR 11.1(b). Because Petitioner has not provided the court with an address within 63 days of the date of the last return of mail, the court finds the case should be dismissed without prejudice for failure to prosecute. See LR 11.1(b).

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, (Doc. 14), is **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 11.1(b) for failure to prosecute. The court further finds there is no substantial showing of the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, therefore a certificate of appealability is not issued.

A Judgment is entered contemporaneously herewith.

This the 18th day of April, 2023.



United States District Judge